

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 21, 2003 at 3 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Daniel (Dan) McGee, Vice Chairman (R)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)

Members Excused: Sen. Ken (Kim) Hansen (D) by Proxy

Members Absent: None.

Staff Present: Jane Hayden, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note:

Audio-only Committees: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SENATE BILL 166, January 21, 2003
Executive Action:

HEARING ON SENATE BILL 166

Sponsor: SENATOR KEITH BALES

Proponents: **Mike Carlson**, Yellowstone Paddlefish Caviar
Program of Glendive Chamber of Commerce
Bob Chelgren, Yellowstone Caviar Program
Jim Culver, President, Yellowstone Caviar Program

Proponents: Bob Gilbert, Walleyes Unlimited of Montana
Scott Herring, Yellowstone Caviar Program
Linda Koncily, Yellowstone Caviar Program
Bobby Kuehn, Yellowstone Caviar Program
Py Kuel, Yellowstone Caviar Program
Erin M. Lutts, Mid-Rivers Telephone Cooperative
Leslie Messer, Richland County
Bruce Smith, Fallon County
John Tezewski, Yellowstone Caviar Program

Opponents: Janet Ellis, Montana Audubon
Jeff Hagener, Director of Fish, Wildlife, and
Parks Commission (FWP)
Chris Hunter, Chief of Staff of Fish, Wildlife,
and Parks Commission (FWP)
Robert Throssell, Montana Wildlife Federation

Opening Statement by Sponsor:

SENATOR KEITH BALES representing Southeastern Montana, Senate District 1, stated that Senate Bill 166 would take the sunset off the successful and on-going Yellowstone Caviar Program. There are three main provisions in SB 166: 1) it removes the sunset date, 2) it extends the harvesting area on the Yellowstone River to the North Dakota border, and 3) it changes the percentage of the profits that go to the Fish, Wildlife, and Parks Commission.

The second provision allows the Program to harvest all the paddlefish caviar caught in Montana, whereas, before the Program could not keep the roe that came from fish in the excluded portion of the river (even though the Program volunteers may have cleaned and filleted those fish). The third provision changes the percentage split, from 35 down to 25 percent for the Fish, Wildlife, and Parks Commission, and from 65 up to 75 percent for the Yellowstone Caviar Program. Senator Bales did not sign the fiscal note because he did not agree with the fiscal note. Senator Bales believes that with a larger harvest area, more paddlefish will be caught and therefore more money would be generated for FWP and the Program.

Proponents' Testimony:

Linda Koncily, Yellowstone Caviar Program, introduced a fourteen minute video of the project which illustrated many of the improvements funded by the Program at the Program site and in many small Eastern-Montana communities. The minutes that follow are excerpts from the video tape.

Fifty percent of the paddlefish fisherman are from out-of-state. The Yellowstone River at 500 miles is the longest free-flowing river in the United States. For years the paddlefish harvest at Glendive was primarily for sport and the meat. For years, the roe and the fish remains were discarded and left on the banks of the river. In 1988, the Fish, Wildlife, and Parks Commission (FWP) authorized the collection of the paddlefish roe. In March 1989, the law was signed giving the Yellowstone Caviar Program 50 percent of the profits for improvements in Eastern Montana for a three-year trial period. In 1993, the Program was given a ten-year extension and the percentages were changed to 60 percent for the Program and 40 percent for FWP.

The Paddlefish Committee participated in a hearing in Washington, D.C., on the Endangered Species Act in 1993, and testified that the paddlefish should not be listed as endangered due to the healthy populations in Montana. This effort was successful.

Part of the uniqueness of the project is how the caviar sale profits are used. Since 1991, there have been \$503,660 in grants to 297 community projects in 12 Eastern-Montana Counties for cultural, historical, and recreational projects.

EXHIBIT (fis12a01)

During this same period FWP has received \$545,051 for paddlefish research and fishing site improvements in eastern Montana. The Program has enabled FWP researchers to obtain new biological and population data leading to better management and the first ever Montana/North Dakota Management Plan.

Harvard University and the Ford Foundation recognized this non-profit endeavor as one of the most innovative new programs in the United States. Approximately, eight seasonal jobs and two permanent jobs have been created by this project. Processing, grading, packaging, and shipping are all done locally. The price and demand for the paddlefish caviar continue to increase due to the exceptional quality.

Jim Culver, President of the Yellowstone Caviar Committee, explained the two major changes requested in SB 166. The first change is increasing the harvesting area because so often the fish they clean are out of the legal area. Paddlefish is a difficult fish to clean, and having to discard the roe from many of these fish just does not make any sense. Besides, this change would help FWP to obtain more accurate counts.

The second change is the percentage split from a 60/40 split to a 75/25 split (after administrative expenses) with the larger amount going back into the Program. It took a lot of work to develop a successful program in just a three-year period with an all-volunteer staff. The staff assisted North Dakota in setting up a similar program, and in North Dakota the split is 75/25 with the 75 percent going to their Program.

In addition, as businessmen there have been a lot of things that have reduced the take, and they are: 1) restricting the allowable harvest from 1500 to 1000 paddlefish annually, 2) decreasing the allowable catch per fisherman from two to one, 3) the continuing drought, and 4) increased marketing costs. The Program has increased marketing because when it started we were getting \$29 a pound wholesale for the caviar, but now we are getting \$150 a pound wholesale which means more money for the Program and FWP. We have begun marketing internationally which is a greater risk, partly because of the credit risks, but so far it has paid off handsomely as we have sold most of our caviar overseas.

{Tape: 1; Side: B}

Increasing the area will also increase the costs for processing because we will need to invest in more equipment so we can keep the roe fresh to make it into caviar.

Lastly, in the past ten years the Program has proved its worth, so we would like the Program to have permanent authorization with no sunset date. We have built a very profitable business from scratch. Now that the Eastern-Montana economy is on a downturn and more communities are aware of our Program's benefits, our grant requests have increased by four or five times from what they used to be.

In closing, I would like to read some testimony from one of our supporters, Mid-Rivers Telephone Cooperative, which has funded grants in the amount of \$31,500 to 12 projects in six communities. The funds have assisted projects such as baseball fields, a hockey stadium, museums, parks and tennis courts. Matching funds generated through volunteers to these paddlefish grants have totaled well over \$100,000. Unfortunately, nearly

all of these projects were funded below the requested levels. The funds that can make the paddlefish grant program possible are generated right here in eastern Montana and those funds should stay here. **EXHIBIT(fis12a02)**

Mike Carlson, one of the original co-founders and present Vice President of Yellowstone Caviar Program, testified that the Program is one of the most unique, multiple-use projects in the United States by combining economic entrepreneurship and environmental stewardship for the benefit of the paddlefish and for our citizens. Small card included in the packet was the original key to the success of the whole Program and it states: "Sportsmen--Paddlefish will be cleaned at no charge, by donating the eggs to a non-profit caviar operation. The proceeds will be used to benefit sportsmen and enhance recreational opportunities in Eastern Montana. For cleaning services contact the Intake concessionaire." The Program serves all of the citizens and all of the communities in eastern Montana. **EXHIBIT(fis12a03)**

Mr. Mike Carlson also serves as Chairman of the Grants Committee and wanted to point out to the Senate Fish and Game Committee the amount of grants given out. The Program has given the Fish, Wildlife, and Parks Commission \$545,000 in grants. The Program and Fish, Wildlife, and Parks have made improvements to the campground by installing power lines, a new well, septic tanks, two boat docks, and have paved the gravel road. The accomplishments are in the fact sheets and three graph sheets contained in the packet that was handed out to the Senate Fish and Game Committee. **EXHIBIT(fis12a04)**

The graphs and charts in the packet show the following:

1) The first years were big years because there were big rains, the limit was two fish instead of one, and there was very little fishing in North Dakota. The average take per year has been 1000 paddlefish and about 2000 pounds of caviar.

EXHIBIT(fis12a05)

2) The pie chart shows where the money has gone and we have kept accurate and complete records. Administrative fees are low because of volunteers. The Program has not been able to spend much on marketing, but better marketing would mean more money because the better we market, the better the price we are going to get. We are just doing wholesale right now, we need to be going to the consumer. The caviar in 4 ounce cans is probably the waive of the future, but that will take more marketing. Presently, we are selling in 5 pound cans that go to the wholesale market. **EXHIBIT(fis12a06)**

3) One graph shows the Cumulative Gross Income. In the beginning we brought in out-of-staters and some Russians as consultants. By 1994, we decided that we could do this ourselves and from that point you can see the income increased. Last year we created approximately 1.8 million dollars with this project and we look forward to a great future. **EXHIBIT(fis12a07)**

Bruce Smith, from the city of Fallon, stated that the city of Fallon received a grant to put in a public toilet in their park where before there was just a pit toilet. Mr. Smith believes in the Program because it benefits many people and believes it is the number one value-added product in State of Montana--taking what used to be thrown away (the roe) and making it into a \$100 per pound product. He would like to see an economic development component added to what they already spend the Program's profits on. The Program is a shining example of what is out there. Since so many of the small communities are unincorporated, they cannot do many improvements on their own, for example, the Program helped to buy and plant trees in their city's park.

Leslie Messer, Executive Director of Regional and Economic Development in Richland County, testified that the Program has provided grants for museums, parks, and youth programs in five communities in Richland County.

Bob Kuehn, Kuehn Trenching, testified that he has done paddlefish cleaning and it is a difficult fish to clean. The area extension would only serve the Program's best interest to be able to keep the roe from every fish they clean. Mr. Kuehn attested that it is the best caviar in the world.

Erin M. Lutts, Mid-Rivers Telephone Cooperative, Inc. stated that the Cooperative writes grants free of charge for any community project within their service area. Some of the grants the Cooperative has written have been to the Yellowstone Caviar Program. Currently, there are 16 cultural, historical, or recreational projects the Cooperative is writing grants for that may not be funded without this Program.

Representative Ralph Lenhart, House District 2, stated that the Program is getting better every year and with SB 166, it will get better a lot faster. The Program benefits Eastern-Montana communities in a large way as there are ten pages of grants in the packet (handed out earlier). The Yellowstone Caviar Program has been a tremendous business, and more money means more funding for the communities and FWP.

Bob Chelgren, on-site Foreman for the Yellowstone Caviar Program, drove 423 miles one way to testify. Mr. Chelgren has felt honored from "day one" to have been a part of this project. He commended the Yellowstone Caviar Committee for all their hard work. Mr. Chelgren stated that he hates to see a waste of a natural resource and because of the Program Montana is now not only "beef country" but "caviar country", too.

Opponents' Testimony:

Jeff Hagener, Director of the Fish, Wildlife, and Parks Commission (FWP), would like to offer some amendments which would make SB 166 palatable to everyone. The paddlefish population is a challenge to sustain and manage as they live up to age 60 and do not reach sexual maturity until 15-20 years of age. **{Tape: 2; Side: A}** Since the paddlefish have been classified as a Species of Special Concern by the State of Montana, the Fish, Wildlife, and Parks Commission must work hard to keep them from being listed as Threatened or Endangered--as the population is declining. Both Montana and North Dakota lowered their allowable takes from 2000 to 1000 a year, so only a combined total of 2000 a year may be harvested. **EXHIBIT(fis12a08)**

FWP is not opposed to extending the harvesting area to the North Dakota border. They are concerned about the rapid deterioration of the roe and therefore, the logistics of transporting the eggs so they remain salable is a priority.

FWP is opposed to the 75/25 percent split. When the Program started the split was 50/50, then 60/40. The Commission would not be opposed to a 70/30 split and would ask that SB 166 be amended to that share. FWP receives the split money after the Glendive Chamber of Commerce has already taken out their costs for administrative, operational, and equipment expenses which have totaled \$776,569 over the time-span of the Program. The total amount that has gone to the Chamber exceeds the total of the grants and FWP's share together. If the split of 75/25 is authorized, FWP is afraid its 25 percent would not be enough to continue the research contract, or maintain and upgrade the intake and fishing access site.

FWP is also opposed to making the Program permanent. The Program has value, but because the paddlefish is a Species of Special Concern it needs to be watched closely so there should be a sunset date. The paddlefish were close to being listed as an Endangered Species in the late 1980's and again in 1993. FWP

would like to offer an amendment that would extend the Program an additional ten years which would go through June 30, 2013.

Janet Ellis, Montana Audubon, stated the minimum that the Program should pay for is the monitoring costs of the existing population. They would also support a ten-year sunset as over-harvesting may hurt not only the paddlefish population, but the commercial aspect of the Program.

Robert Throssell, Montana Wildlife Federation, expressed that they have the same concerns as FWP and Montana Audubon. They would like to see the Program maintained, but support the sunset in order to give Fish, Wildlife and Parks the necessary tools to manage the resource.

Informational Testimony: None.

Questions from Committee Members and Responses:

SENATOR DEBBIE SHEA asked **Janet Ellis, Montana Audubon**, about the cost of the monitoring. **Ms. Ellis** replied that it would be \$65,000 annually which is already subsidized.

SENATOR SHEA asked **Mike Carlson, Yellowstone Caviar Program**, whether the next generation of Glendive residents are as committed to continuing the Program as you have been. **Mr. Carlson** responded that they work hard to get younger members of the community involved and that their biggest hope lies in the grant recipients--many are "young" organizations--who have volunteered their labor when the Program has supplied the money and materials. Senator Shea stated that it is so incredible to have a visionary dream and see it through like you have.

SENATOR DALE MAHLUM asked **Jeff Hagener, Director of FWP**, about the number of paddlefish that are raised in hatcheries. Mr. Hagener deferred the question to **Chris Hunter, Chief of Staff of FWP**. **Mr. Hunter** replied that there were none in Montana because the existing hatcheries would have to be modified to accommodate the structure of these prehistoric fish, though there are paddlefish hatcheries in other places in the United States. **SENATOR MAHLUM** asked **Chris Hunter** whether the paddlefish population in Montana is here all of the time. **Mr. Hunter** responded that the paddlefish spend most of the year in Lake Sacajawea in North Dakota and only come into Montana in the springtime to spawn.

SENATOR JOE TROPILA asked **Chris Hunter** if any of the paddlefish head up the Missouri River when they come here. **Mr. Hunter** replied that the Missouri was too cold and that the Yellowstone River is perfect for them as it is dirty and warm.

SENATOR DAN MCGEE asked **Jeff Hagener** about the fiscal note wherein 40 percent goes to Fish, Wildlife, and Parks. According to the Senator's calculations, that would leave the Commission about \$12,000 short of the money needed to complete the research contract on the population. **Mr. Hagener** answered in the affirmative. **SENATOR MCGEE** then asked how would you make up the difference. **Mr. Hagener** explained that it would be from other funding sources within the Department, largely general license dollars (sportsmen's dollars).

SENATOR MCGEE further asked that if his math is correct, then at the 30 percent level that FWP is asking for, the amount would equal \$37,834, and that would be \$25,000 short and how would FWP pay for that. **Mr. Hagener** responded that what this does not reflect--the part of the bill that doesn't change--the administrative costs that are taken out before this cut comes. Over the entire time of the contract, the 70/30 split would cover FWP's costs because the 30 percent would be out of the gross amount, not the net amount. **SENATOR MCGEE** then asked **Jeff Hagener** whether \$126,115 was gross for 2002. **Mr. Hagener** responded that was the net after the administrative costs. **SENATOR MCGEE** then inquired as to whether the administrative fees plus the general license fees would make up the difference between the 30 percent--which FWP is asking for--and what it doesn't cost to do the contract. **Mr. Hagener** answered if he understood the Senator's statement, that that was correct.

SENATOR TRUDI SCHMIDT asked **SENATOR KEITH BALES** whether there was a willingness to compromise on any of these points. **SENATOR BALES** responded he did not know because to his knowledge this is the only non-profit program contributing any money to FWP for the study of its species. Money that FWP is getting from this Program is above what they are getting for the study of the wolf, sagegrouse, etc. Studies of these species are paid fully by FWP. To say that this Program has to pay for the study of the paddlefish, is ludicrous.

SENATOR SCHMIDT asked **Mike Carlson** what are the official names of your product and non-profit organization. He stated that the product is called Yellowstone Caviar and the organization is called the Paddlefish Caviar Committee of Glendive Chamber of Commerce.

SENATOR MIKE SPRAGUE asked **Jim Culver** if the Committee charged any type of fees to out-of-staters. Mr. Culver stated that FWP owns the intake area and they collect camp fees. The Committee supplies a boat to go across the Yellowstone River, but these fees go to a private concessionaire. The Committee arranges all the concessionaires, but all the fees (\$1500/year) go to FWP. The Committee generates fishing licenses and tons of paddlefish tags and over 53 percent of those are sold to out-of-staters. **SENATOR SPRAGUE** asked **Mr. Culver** to explain the one-fish limit. Mr. Culver explained that it was one fish per person for the six-week season and that the Committee has no quarrel with the harvest limits of the species for the stability of Program.

SENATOR SCHMIDT asked **Jeff Hagener** if a paddlefish tag is a separate license. **Mr. Hagener** replied that it is a separate tag that costs \$5 for in-state and \$12 for out-of-state residents.

SENATOR TROPILA asked **Jeff Hagener** if the paddlefish could be moved to Fort Peck for hatching. **Mr. Hagener** responded that FWP had not looked into that, but thought that the ponds and raceways at the hatchery may not be engineered to be conducive to prehistoric-shaped paddlefish.

SENATOR SPRAGUE asked **Jeff Hagener** if North Dakota chose to dam the Yellowstone River so the paddlefish could not come into Montana waters, would a hatchery for them be feasible, and do we have control over what North Dakota's FWP may or may not allow. **Mr. Hagener** stated that Montana's FWP does not have any control over North Dakota's FWP, but the federal government would be involved in a change such as **SENATOR SPRAGUE** suggested.

SENATOR DALE MAHLUM asked **Jeff Hagener** if the paddlefish that are upstream from Fort Peck are open for fishing and if there were any entrepreneurs up there. **{Tape: 2; Side: B}**
Mr. Hagener responded that the paddlefish upstream at Fort Peck may be fished, but that there are no programs such as the Yellowstone Caviar Program that collect the roe there.

Closing by Sponsor:

SENATOR KEITH BALES stated that he was enthused by this, and it is a great project as the testimony bears out. **SENATOR BALES** wanted to address **SENATOR SCHMIDT's** questions concerning the percentage splits. **SENATOR BALES** thought at this point in time, the Committee is supporting with money and grants many very

worthwhile projects and that the 75/25 percent ratio share should remain in SB 166. **SENATOR BALES** stated that he knew of no other Program that is paying FWP one cent to have their species studied. If the harvesting area is increased as requested, the Program will be able to capitalize on the larger amount of paddlefish roe it can produce, and therefore, FWP will be receiving more money even with the 75/25 split.

SENATOR BALES explained there is no need for a sunset date on the Program. FWP could totally stop this project by not issuing any more paddlefish licenses or they could bring a legislative bill in the future to sunset the Program. **SENATOR BALES** testified that he would like SB 166 to go forward just as it is. It is a valuable project, a win-win project and FWP has been relieved of much of the responsibility of gathering the data--it is currently being gathered by the people in the Program.

ADJOURNMENT

Adjournment: 4:20 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE HAYDEN, Secretary

MS/JH

EXHIBIT(fis12aad)